

Appl. No. : 10/026,066
Filed : December 7, 2001

REMARKS

Applicants thank Examiner VanderVegt for his review of the application. The Advisory Action dated April 29, 2005 stated that the amendments submitted in the "Amendment and Response to Final Office Action" filed on January 31, 2005 were not entered. Thus, Applicants have amended the claims as set forth above.

By the foregoing amendments, Applicants seek to cancel Claim 37 without prejudice. Also, Claims 1 and 42 are amended. Also, entry of new Claims 43-57 is requested. As evidenced below, the amendments and the new claim do not introduce new matter into the application. Claims 1-5, 29-37 and 38-57 are pending in the application, with Claims 1 and 42 being the only independent claims.

Support for Amendments

Exemplary support for Claim 1 can be found throughout the specification and particularly at page 107 line 21 to page 108, line 16. Claim 42 has been amended to clarify that the first housekeeping epitope and second housekeeping epitope are not the same. Support for this amendment can be found at page 7, lines 25-30. Claim 42 has also been amended for clarity to provide proper antecedent basis for the dependent claims. New Claims 43-57 are supported throughout the specification and the claims as originally filed. Therefore, no new matter has been added by these amendments.

Discussion of Rejection under 35 U.S.C. § 102

The Examiner maintained the rejection of Claims 1-5 and 29-42 under 35 U.S.C. § 102(b) as being anticipated by Zajac et al., Kittlesen et al., and Jäger et al.

Claim 1:

Applicants previously argued that the compositions were not suitable for administration to animals. In the Final Office Action, the Examiner argued that the arguments were not persuasive because there was no restriction on giving compositions to non-human animals, even a composition that otherwise would be impermissible for human use.

Applicants have amended Claim 1 to recite that the composition is suitable for adoptive administration to a human. Claim 1 also recites that the composition comprises "a first isolated T cell in a pharmaceutically acceptable formulation suitable for adoptive administration to a human. Applicants submit that the cited references fail to anticipate amended Claim 1 because none of the

Appl. No. : 10/026,066
Filed : December 7, 2001

references disclose, *inter alia*, a composition that is suitable for adoptive administration to a human. Therefore, withdrawal of the rejection of Claim 1 under § 102(b) and allowance of the claim is respectfully requested.

Claim 42:

Also, in the Final Office Action, the Examiner maintained the rejection of Claim 42 in view of the cited references asserting that Applicants' previous argument was not convincing because there "is no requirement in the claim that the second T cell population or epitope are different from the first." The Examiner reasoned that the "interpretation that the first and second T cell populations are the same is supported by new claims 38 and 39, which recite that the 'first and second antigen are the same' in claim 38 and that the 'first target cell and second target cell are the same' in claim 39." Thus, the Examiner concluded that "[i]f the first and second antigens are the same, then the second 'housekeeping epitope' derived therefrom ... can also be the same as the first housekeeping epitope."

In order to address the Examiner's concern, Claim 42 has been amended to specifically recite that "the first housekeeping epitope and the second housekeeping epitope are not the same." Therefore, Applicants have clarified in amended Claim 42 that the first and the second housekeeping epitopes are different.

In view of the amendment to Claim 42, and for the reasons previously submitted, Applicants assert that Claim 42 is not anticipated by any of the cited references because none of the references teach each and every element of the claim. Therefore, withdrawal of the rejection under § 102(b) and allowance of the claim is respectfully requested.

Conclusion

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.


Appl. No. : 10/026,066
Filed : December 7, 2001

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 5/2/05

By: 

Eli A. Loots
Registration No. 54,715
Attorney of Record
Customer No. 20,995
(619) 235-8550

1720461 sma051905